

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3118

IN THE MATTER OF:

Served January 29, 1988

GOLD LINE, INC.)

Case No. FC-86-01

v.)

AMERICAN COACH LINES, INC., et al.)

Investigation of Compliance of)
AMERICAN COACH LINES, INC.)

Case No. MP-87-08

By petition filed December 10, 1987, American Coach Lines, Inc., a District of Columbia corporation ("ACL-DC"); American Coach Lines, Inc., a Maryland corporation ("ACL-MD"); Sherman Coaches, Inc.; Carter Tours, Ltd.; Frank Sherman, Sr.; and Frank Sherman, Jr. ("defendants-respondents") request that the Commission stay the effectiveness of Order Nos. 3079 and 3099, served October 9, and December 4, 1987, respectively, pending judicial review. Defendants-respondents base their petition on a Motion for Stay of Orders of the Washington Metropolitan Area Transit Commission Pending Judicial Review and memorandum in support thereof filed December 10, 1987, in the United States Court of Appeals for the District of Columbia Circuit. That motion was filed by ACL-DC, ACL-MD, and Frank Sherman, Jr., ("petitioners") together with a petition for review of Order Nos. 3079 and 3099. Defendants-respondents' request for a stay is opposed by Gold Line, Inc.

The criteria for deciding a petition for stay of agency orders pending judicial review consists of a four-part inquiry as follows:

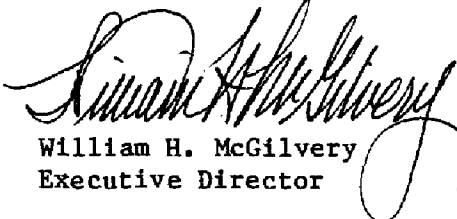
- (1) Has the petitioner made a strong showing that it is likely to prevail on the merits of its appeal? . . . (2) Has the petitioner shown that without such relief it will be irreparably injured? . . . (3) Would the issuance of a stay substantially harm other parties interested in the proceedings? . . . (4) where lies the public interest? Virginia Petroleum Jobbers Ass'n. v. Federal Power Comm., 259 F. 2d 921, 929 (D.C. Cir. 1958).

Under those criteria the United States Court of Appeals for the District of Columbia Circuit acting per curiam denied the motion for stay of ACL-DC, ACL-MD, and Frank Sherman, Jr., by Order issued December 18, 1987. Inasmuch as the Court with jurisdiction to review decisions of this Commission has already denied the same motion based on these same criteria, we consider the issue settled as a matter of law. The motion is hereby denied as it applies to petitioners.

No evidence or legal argument has been presented which even alleges grounds for a stay of Order Nos. 3079 and 3099 as they apply to Carter Tours, Ltd.; Sherman Coaches, Inc.; or Frank Sherman, Sr. Moreover, Carter Tours, Ltd.; Sherman Coaches, Inc.; and Frank Sherman, Sr., have filed no notice of appeal of those orders. Consequently, the petition for stay is hereby denied as it applies to those three defendants-respondents.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director